Supreme Court, U.S.
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No. 95-1268

IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

STATE OF MARYLAND,
Petitioner,

v.

JERRY LEE WILSON,
Respondent.

ON WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS OF MARYLAND

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED FEBRUARY 9, 1996
CERTIORARI GRANTED JUNE 17, 1996

58 pp

TABLE OF CONTENTS

Page

Chronological List of Relevant Docket Entries ... JA-1

Motion to Suppress Evidence (R. 36) JA-3

Transcript of Proceedings of November 23, 1994 (Hearing on motion to suppress) JA-5

The following opinions have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for Writ of Certiorari:

Reported opinion of the Court of Special Appeals of Maryland, *State of Maryland v. Jerry L. Wilson*, 106 Md. App. 24, 664 A.2d 1 (1995) . . . App. 1a-32a

Unreported ruling of the Circuit Court for Baltimore County, Maryland, filed January 10, 1995, *State of Maryland v. Jerry L. Wilson*, Case No. 94 CR 02601 . . . . . App. 33a-36a

Reported order of the Court of Appeals of Maryland, filed November 22, 1995, *State of Maryland v. Jerry Wilson*, 340 Md. 502, 667 A.2d 342 (1995) . . . . . App. 37a

Unreported order of the Court of Special Appeals affirming the ruling of the Circuit Court for Baltimore County . . . App. 38a

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

July 5, 1994 — Eight-count indictment filed, charging conspiracy to violate controlled dangerous substance laws (four counts), importation of cocaine (one count), possession with intent to distribute cocaine (two counts), and possession of cocaine (one count).

July 14, 1994 — Defendant's motions pursuant to Md. Rule 4-252, including motion to suppress, filed.

November 23, 1994 — Defendant's motion to suppress heard and held sub curia.

January 10, 1995 — Opinion and order granting defendant's motion to suppress.

January 19, 1995 — State of Maryland's notice of appeal filed.

July 17, 1995 — Per curiam Order and mandate of the Court of Special Appeals of Maryland affirming order granting motion to suppress.

July 25, 1995 — Order of Circuit Court Administrative Judge staying proceedings pending disposition of case in Court of Appeals of Maryland.

August 1, 1995 — State of Maryland's petition for writ of certiorari filed in Court of Appeals of Maryland.

August 30, 1995 — Reported Opinion of Court of Special

Appeals of Maryland affirming order granting motion to suppress.

September 6, 1995 — Supplement to petition for writ of certiorari filed in Court of Appeals of Maryland.

November 22, 1995 — Order of the Court of Appeals of Maryland denying the petition for writ of certiorari.

December 8, 1995 — Order of Circuit Court Administrative Judge (dated December 5, 1995) staying proceedings pending disposition of case in United States Supreme Court.

STATE OF MARYLAND	*	IN THE CIRCUIT COURT
VS	*	FOR BALTIMORE COUNTY
JERRY LEE WILSON	*	CASE NO. 94 CR 2601

* * * * * * * * * * * *

MOTIONS PURSUANT TO
MARYLAND RULE 4-252

Defendant, by his/her attorney, pursuant to Maryland Rule 4-252, respectfully represents unto this Honorable Court:

1. That any identification of the defendant was or will be tainted as a result of impermissibly suggestive identification procedures by police authorities and/or was or will be the result of an illegal arrest or search.
2. That evidence was obtained as the result of an illegal search and seizure, arrest, and/or interception of communications.
3. That any statement/confessions taken from the defendant were involuntary and/or elicited during custodial interrogation without observance of procedural requirements of law.
4. That the defendant will be prejudiced by the joinder of his trial with that of any co-defendants and the joinder of charges arising from separate incidents.
5. That the indictment/information is defective.
6. That this prosecution is barred because of statute of limitations, immunity, and/or double jeopardy.

WHEREFORE, the defendant prays the following relief:

a) Dismissal of the indictment/information;

b) Suppression of any in-court identification and/or illegally seized evidence and/or any statements/confessions;

c) Severance of indictments/informations and/or severance of his/her trial from that of any co-defendants;

d) A hearing on the motion to dismiss the indictment/information, suppression of any in-court identification and/or illegally seized evidence and/or any statements/confessions, and severance of indictments/informations and/or severance of his/her trial from that of any co-defendant's;

e) And any further relief available by law.

Further, the Defendant moves this Honorable Court to grant him/her a speedy trial in the above-captioned matter.

/s/

Spencer Gordon
Assistant Public Defender
500 Virginia Avenue
Towson, Maryland 21204
339-4339

Citations of Authorities:
Chapman v. California, 386 US 18 (1967) Coleman v. State, 8 Md. App. 65 (1969), Mapp v. Ohio, 367 US 18 (1961), Hillard v. State, 286 Md. 145 (1979), Erman v. State, 49 Md. App. 605 (1981), McKnight v. State, 280 Md. 604 (1977), Ayre v. State, 291 Md. 155 (1981), Benton v. Maryland, 295 Us 784 (1979), McMorris v. State, 277 Md. 62 (1976).

[1]

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

Case No. 94 CR 2601

STATE OF MARYLAND

vs.

JERRY L. WILSON,

Defendant

OFFICIAL TRANSCRIPT OF PROCEEDINGS

Towson, Maryland
November 23, 1994

BEFORE:

THE HONORABLE THOMAS J. BOLLINGER, JUDGE,

APPEARANCES:

ON BEHALF OF THE STATE:

Dean Stocksdale, Esquire

ON BEHALF OF THE DEFENDANT:

G. Warren Mix, Esquire
John C. Calhoun, Esquire
James Farmer, Esquire

Reported by:

Diana Kukk, CSR

[2] PROCEEDINGS

MR. STOCKSDALE: Dean Stocksdale, Assistant State's Attorney for Baltimore County. I will be calling the case of State of Maryland versus Terrence McNichol, 94 CR 2602; and State of Maryland versus Jerry Wilson, 94 CR 2601. Judge, I apologize, we probably should have litigated the motions prior to trial date, but I understand there is one motion they want to pursue, a motion to suppress the evidence in this case. So far I think that is why we're here.

MR. MIX: Correct, Your Honor. G. Warren Mix, representing defendant, Jerry Wilson, along with co-counsel, Mr. Farmer.

MR. CALHOUN: John Calhoun for Mr. McNichol who is present.

THE COURT: Call your first witness.

MR. MIX: Motion to sequester all witnesses.

THE COURT: All who are going to testify in this case kindly step outside, remain outside until you are called to testify. Please do not discuss your testimony with anyone.

MR. STOCKSDALE: At this time, State calls Trooper David Hughes to the stand.

[3] WHEREUPON:

TROOPER DAVID HUGHES,

a witness herein, having been first duly sworn according to law, was examined and testified as follows:

THE CLERK: Please be seated. For the record would you state your name and current duty assignment.

THE WITNESS: Trooper David Hughes, currently assigned to John F. Kennedy Highway Barrack.

DIRECT EXAMINATION

BY MR. STOCKSDALE:

Q. How long have you been employed with the Maryland State Police?

A. Approximately 13 months.

Q. Calling your attention to June 8, 1994, at 7:30 p.m., did you have occasion to be employed with the Maryland State Police and on duty that evening?

A. Yes, I did.

Q. What were you doing at approximately 7:30 p.m., sir?

A. I was at a standstill, sir, at the crossover on I-95 facing southbound traffic, at that time.

[4] Q. Is that location that you just told Judge Bollinger in Baltimore County?

A. Yes, sir, it is.

Q. Did you make any unusual observations while you were at -- you were in a standstill position on southbound I-95?

A. That's correct. At that time I observed -- it was a white 1994 Nissan Maxima, it was in lane number one, at that time, which would be the far left. It appeared to be exceeding the posted speed limit, it went by at a high rate of speed. At that time I pulled out and I also observed on the vehicle there was no front tag, nor was there a back tag either. It was a brand-new car. And I then pulled out and the vehicle, at that time, I pulled out my vehicle, it slowly, causally [sic] went over to the far right lane, and I then went in behind the vehicle. I was directly behind the vehicle. At that time I initiated a pace, 64 miles an hour. There was no tag on the front or the back except on the back it was a paper tag kind of hanging half off, half on that said Enterprise Rent-A-Car.

Q. When you pulled out, how long did you follow the vehicle prior to it making movement from the far left lane; far left lane, is that the fast [5] lane?

A. Fast lane, lane one.

Q. To the far right. How long were you following the car until it did that?

A. Right away, immediately, as soon as I pulled out, as soon as I pulled out in lane one, the far left, got behind the vehicle, the vehicle causally [sic] went over, put the blinker on, went over to lane two then lane three, I then followed.

Q. What was the traffic like at that particular period of time?

A. It was -- traffic was light.

Q. When you were following the vehicle, how far were you behind the car, the Nissan Maxima?

A. Approximately five, six car lengths.

Q. At what speed were you pacing the vehicle in the slow lane?

A. 64 miles an hour in a 55 zone.

Q. Posted 55 zone?

A. Yes, sir.

Q. How far did you conduct a pace of the vehicle, the Nissan Maxima for 64 in a 55 zone?

A. Approximately one mile.

Q. Did there come a time when you took some action after initiating that pace?

[6] A. Yes, I activated my emergency equipment; upon initiating the pace, the vehicle eventually stopped at the 60.6 mile marker which would be Baltimore City, Maryland. So I continued an extra mile and a half before actually stopping with my light and siren on, at that time.

Q. So for a mile and a half you had your light and siren on?

A. That's correct, approximately.

Q. The vehicle kept driving?

A. Yes, sir.

Q. It was eventually stopped in Baltimore City?

A. Correct.

Q. Could you see the occupants inside the vehicle while you were conducting your pace of the vehicle?

A. Yes, I did, it was three occupants in the vehicle, but, however, the right-front passenger and the back-seat passenger I saw constant movement, at that time, I had my emergency equipment on, I saw the back seat passenger bend, turn several times, I would see the top of his head then I wouldn't see it. Same with the right front seat passenger. More so with the back seat passenger. I would see a head [7] over top of the seat, I would see him come down and go up, the back seat passenger; also the right-front seat passenger turn back and looking at me several times.

Q. How many times would you say the right front passenger that you saw his head duck below the seat level?

A. Four to five times.

Q. Was it daylight or nighttime during your pace of the Nissan Maxima?

A. It was daylight.

Q. Was anything obstructing your vision of the Nisson [sic] Maxima and its occupants while you were conducting the pace?

A. No, sir.

Q. With respect to where the vehicle eventually stopped, in what part of the roadway did it stop?

A. The far right, on the shoulder.

Q. Where did you park your car in relationship to the vehicle, the Nisson [sic] Maxima?

A. Directly behind it, at a ten degree angle.

Q. As soon as you stopped your car could you please describe for Judge Bollinger exactly what took place at that point?

[8] A. Okay. Your line of questioning do you mean making contact with?

Q. Yes, if you would explain what happened after you stopped the car.

A. Upon the traffic stop I still saw a lot of movement in the vehicle. I was a little bit hesitant to go all the way up to the vehicle. At that time I exited my vehicle, stood with my door open, facing the occupants in the vehicle, I asked the driver to step back to me, he was already out of the car coming back to me, so I had opened my door and kind of met him half-way at that time. The driver was Mr. McNichol; I spoke with him, told him why I had stopped him and asked for his driver's license and registration. He did have his driver's license, however, he didn't have the registration, it was a rental car.

Q. Go ahead.

A. He just advised that the papers were back in -- the rental papers were in the back in the vehicle, he did not have them on him at that time.

Q. Let me stop you there so we can discuss some time period. Where, exactly, did you meet Mr. McNichol, you identified him as the driver, where did you meet him in reference to where both of the [9] cars were?

A. He was, Mr. McNichol was to the back of his, which would be the front of my vehicle, is where I met him.

Q. How soon after the stop was initiated did Mr. McNichol get out of his car?

A. Immediately, right upon the stop.

Q. Did you request him to get out of the car?

A. No, I did not. When I saw the door opening then I opened my door, of course, because I didn't know, at that time, what was going to happen.

Q. Sure.

A. Then he started to come back to me and I just -- I kind of met him half-way. I went around the side of my door, we met at the front of my patrol car, at the rear of his vehicle.

Q. At that point how long did you engage Mr. McNichol in a conversation?

A. A minimum, at the most, 30 seconds to a minute.

Q. You indicated you asked him for his license.

A. License, registration of the vehicle.

Q. He showed you the license?

A. That's correct.

[10] Q. And said there was a rental agreement in the back?

A. Yes, sir.

Q. Or in the back of his car. What did you request of him, at that point, with respect to any registration or rental agreement or did you?

A. I did, at that time, I asked for the registration, however, he stated that it was back in the vehicle; and, you know, I asked him a couple more questions.

Q. What did you ask him, if you can remember?

A. Well, first of all, I told him why I stopped him, asked for his license and registration, he displayed the license, no registration, said it was back in the vehicle. I asked him where he was coming from, where he was going to. I asked him about the vehicle, the tag on the vehicle, I told him that, you know, about the paper tag, it was hanging off, that I was concerned with that, also with the speed, as well. Then I explained to him he could go back in the vehicle and retrieve the registration for me, at that time.

Q. Could you describe his demeanor during the period of time you engaged him in this conversation about license, registration and his route of travel, [11] destination?

A. Upon asking Mr. McNichol questions, I asked him where he was coming from, where he was going to, he was extremely nervous. Upon handing me the license he was trembling, his hand was shaking a little bit and he would answer, he would answer a question with a question. I said where are you coming from? Where am I coming from? You know, then he was coming from Connecticut.

Same line of questioning; where are you going to and he said where am I going to? Almost like he had to think about what, you know, where he was coming from and going to. And he seemed unusually nervous to me.

Q. Okay, at that point, what did Mr. McNichol next do?

A. At that point he went back to his vehicle, had a seat in the driver's seat.

Q. Where did he go?

A. Went back down, sat down in the driver's seat.

Q. What did you do, at that point?

A. At that time I then mentioned for the right front passenger, Mr. Wilson, to exit the vehicle, also step back with me.

Q. First of all, do you see Mr. McNichol in [12] the courtroom today?

A. Yes.

Q. Where is he?

A. Right here (indicating).

Q. For the record, identifying the defendant. Do you see Mr. Wilson?

A. Yes.

Q. Where is Mr. Wilson?

A. Right there (indicating).

Q. For the record, identifying Mr. Wilson, seated next to Mr. Farmer.

What did you do with respect to Mr. Wilson, at that point?

MR. MIX: Objection.

THE COURT: Basis?

MR. MIX: Judge, it's basically the whole purpose, at this stage, in reference to the motion to suppress, there is absolutely nothing in this officer's testimony, I may need to go into or under as to why he needs, at this point, to ask anybody else to get out of the car. The man's a passenger. He talked to the driver, he is satisfied with what the driver's given to him.

MR. STOCKSDALE: Judge, if you would like me to address it, I would. I thought this was going [13] to be what we would eventually argue about.

THE COURT: Why doesn't somebody tell me what we're trying to suppress here.

MR. STOCKSDALE: Drugs.

THE COURT: How were they found; what is the basis for the obtaining of the drugs, consent search?

MR. STOCKSDALE: Actually, what happens is after Mr. Wilson is asked to get out of the car he takes one step and falling from his left -- right pants leg, I am not sure which one it was, is 76.4 grams of cocaine, base crack cocaine. At that point the officer, it would be argued, recognized through his training, knowledge and experience that that is, in fact, crack. He is a passenger, he is placed under arrest. The other occupants of the car are passengers that were eventually placed under arrest. Found on the rear seat passenger who, I believe, was a juvenile, I believe he is being tried as an adult, was other paraphernalia and CDS and Mr. McNichol there was not anything found on him.

THE COURT: All right, that all goes after. The crux of the problem is did the request to get Mr. Wilson out of the passenger seat pass Constitutional muster, if it does, everything else [14] falls in line; if it doesn't, everything goes out.

MR. STOCKSDALE: That's correct. Are you asking me, at this point, to make my argument?

THE COURT: At this point, his objection is sustained, we're at that point you're cross-examining him, unless you have anything else up to that point.

MR. STOCKSDALE: I was going to get to the point where he asked him to get out of his car.

THE COURT: He said that.

MR. STOCKSDALE: What happens as soon as he took a step out of his car --

THE COURT: That is the way I see the motion. Do you agree, Mr. Mix?

MR. MIX: Yes, Your Honor.

MR. CALHOUN: I join the objection, Your Honor.

THE COURT: You join the objection. Well, I sustained it.

MR. STOCKSDALE: So I guess now, at this point, I am offering him for cross-examination because I'm prepared to argue.

THE COURT: I got your point.

MR. STOCKSDALE: Right, okay.

CROSS-EXAMINATION

[15] BY MR. MIX:

Q. Trooper Hughes, approximately, this was 7:30 p.m. on June 8?

A. Yes, sir.

Q. When you pursued this vehicle you said you had an opportunity to observe that the rear paper tag had Enterprise Rent-A-Car on it, correct?

A. That's correct.

Q. And did you file a police report on this matter, Trooper Hughes, which would be -- looks like complaint number Z 6211303, did you file that?

A. Yes, I did.

Q. And I guess it's on page three you talked about being on routine patrol when you first observed this car you believed to be operating at a high rate of speed in lane one, is that correct?

A. Yes, sir.

Q. You got behind it, paced 64 in a 55; is that not correct?

A. Yes, it is.

THE COURT: Mr. Mix, Mr. Stocksdale, I see Detective Taylor here, are you going to call him?

MR. STOCKSDALE: During my case in chief, not during the motion.

THE COURT: All right.

[16] MR. CALHOUN: Your Honor, I move to sequester him.

THE COURT: He is not going to call him why do you have to sequester him?

MR. STOCKSDALE: The other point, judge, is that I would be asking him to be qualified as an expert at the trial. I think, even at this stage, he would be permitted to sit in and listen to the testimony. That would be my other argument, that Detective Taylor should be able to remain in the courtroom.

THE COURT: Wait a minute. Out of an abundance of caution I am going to, for purposes of the motion, ask Detective Taylor to step out. There is a motion to sequester, we'll be careful.

All right, now, Detective Taylor is out of the courtroom. Are you satisfied, Mr. Calhoun?

MR. CALHOUN: Satisfied.

THE COURT: All right.

BY MR. MIX:

Q. How long was the pace, Trooper?

A. Approximately one mile, sir.

Q. One mile. Is there anything unusual on that highway of a speed of 64 in a 55?

A. 64 in a 55 is probably usual speed, [17] however, it's unusual to see no tags on a brand new vehicle like that, okay.

Q. You said there was a paper tag, Enterprise Rent-A-Car in the back?

A. Correct, hanging half-way on.

Q. I am asking you about the speed. Was anything unusual on that highway, at that hour, June 8 at 7:30 for a vehicle to be travelling 64 in a 55, from your experience, which at that time, was about 8 months on the police force; is there anything unusual about that speed?

A. Sir, what is unusual about it is I was in lane one, he went by me at an extremely high rate of speed which was more than 64. Upon entering, being right behind, it is unusual to drive -- I was in the right lane -- at 64 miles an hour, based on my experience on the highway, lane three, 64 miles an hour is unusual to me, yes, sir. It is especially when you have a trooper right behind you.

Q. You just said it wasn't unusual, now you changed. Is it or is it not? The first time you answered it's not unusual this rate of speed, now you changed it completely.

A. Well, it is unusual, in lane number three it is.

[18] Q. Lane three to you is the fast lane or?

A. Lane three is the slow lane.

Q. Were any other cars passing, at that time?

A. Any other passing?

Q. Cars passing you or passing the other vehicles?

A. Not to my knowledge.

Q. You were in a marked MSP unit; is that correct?

A. That's correct.

Q. Now, you said that you noticed three occupants in the vehicle?

A. Yes, sir.

Q. What did you say in reference to the back seat passenger?

A. I would see the back seat passenger several times more so than the right front passenger, for some reason unknown to me, I would see, I could see the top of his head go -- I could see his head go below the seat level behind then I wouldn't see him any more.

Q. Tell me where that is, please, where you checked your observations about that back seat passenger?

A. I don't see it in here, sir.

[19] Q. Is there any reference made to anything in this police report in reference to the occupants of the car while

you were observing them; is there anything in here whatsoever about that?

A. Other than the furtive movement, no. Furtive movement upon the stop, not while in motion.

Q. Prior to the stop?

A. No, sir.

Q. You testified all these, what you believe, I guess, to be unusual actions but there is nothing like that mentioned in this police report, is there, Trooper Hughes?

A. No, sir.

Q. The vehicle pulled over to the right shoulder of the road when you put your emergency equipment on, correct?

A. Yes, sir.

Q. You parked directly behind the vehicle, correct?

A. Yes, I did.

Q. The driver who you have identified as Mr. McNichol got out immediately, right?

A. Correct.

Q. What did you tell Mr. McNichol as to why you stopped him?

[20] A. I told him the same reason I told the Court, 64 miles an hour in a 55 mile an hour zone, as well as the tag, I saw no tag on the vehicle other than the rent-a-car paper tag, loosely attached.

Q. Did you ask for his driver's license and registration?

A. Yes.

Q. Did he give those to you?

A. He gave me the driver's license.

Q. What was the driver's license, what did it say about Mr. McNichol, what kind of driver's license was it?

A. Connecticut driver's license, I believe.

Q. Did you ask him any other questions, at that time?

A. Yes, I did.

Q. What did you ask him?

A. I asked him where he was coming from, where he was going to.

Q. What were his answers?

A. He stated that he was coming from Connecticut, going to South Carolina.

Q. Correct and he had a valid Connecticut driver's license?

[21] A. Yes, he did.

Q. Did you ask him to return to the vehicle to get the registration?

A. Yes, I did.

Q. Did he get that for you?

A. No, he did not get the registration for me.

Q. Did you go to the car and ask him for registration, the driver?

A. No, I did not.

Q. You didn't. Okay. Did you run a check on the Enterprise tag, at all, before you went back to that vehicle?

A. Sir, there was no way to run a check by seeing Enterprise Rent-A-Car, you can only run a check by the VIN number. I did not approach the vehicle until the arrests were made, therefore, I was unable to run a check whether the vehicle was wanted or not.

Q. You said also, Trooper, that upon the stop you said something about you saw some more movement, in the car, at the stop; is there anything in your police report that says there was any movement at all, by anyone, upon the stop, the fact that you approached Mr. McNichol?

[22] A. Yes.

Q. Where?

A. Page four of six, bottom part of the page.

Q. Page four of six?

A. Bottom part of the page, last paragraph, due to furtive movement by occupants of the vehicle, starts right there. Here, I will let you see mine.

Q. Bottom of five. Due to furtive movement by the occupants in the vehicle you asked him to get out, that is after Mr. Wilson is already out of the car?

A. Correct.

Q. I am saying prior to that, is there anything, in your police report, that says there was anything unusual about either one of the passengers when you're talking to McNichol or before Mr. McNichol gets out, is there anything in this report?

A. No, sir.

MR. MIX: Thank you. I have nothing further.

MR. STOCKSDALE: I have follow-up with that.

THE COURT: Mr. Calhoun?

BY MR. CALHOUN:

Q. Trooper, you had been a Maryland State [23] Police Officer for eight months as of the time of this arrest; how much of that time was spent on active duty?

A. Sir, I graduated from the Maryland State Police Academy March 12, was in training for two months, out on the road with another trooper, released out on my own May 12.

Q. After May 12 were you assigned to the Elkton Barracks?

A. No, I was not.

Q. Where were you assigned?

A. J.F.K. Highway Barracks right on 95.

Q. Now, the lighting conditions were very good at the time of this stop; is that correct?

A. That's correct.

Q. You did not have your gun drawn at the time that my client is alleged to have gotten out of the car initially; is that correct?

A. No, I did not.

Q. Did he first produce a driver's license of Connecticut or did you first ask him where he was coming from and he said he was from Connecticut; which happened first?

A. I believe he produced the driver's license, as he exited the vehicle, he had the [24] driver's license in his hand.

Q. Did you, at that point, run a check on the license or anything of that nature?

A. Not until I questioned him and not until after, sir, I did not run a check right away.

Q. Now, there is no mention, in your report, isn't it true, there is no mention, in your report, of nervousness or anything of that nature, as pertains to my client, in your report; is that correct?

A. I believe that is correct.

Q. You then directed my client to return to the car to get the registration; is that correct?

A. Yes, sir.

Q. Did my client tell you the car was a rental vehicle?

A. I believe he did, yes.

Q. Did he say that, that he had the registration?

A. He said he did have it in the vehicle, he was unaware, at the time, where it was, that is why he exited with just his license.

Q. Did you then approach the vehicle after he said that -- did my client then return to the vehicle and sit in the vehicle?

[25] A. Yes, he did.

Q. Did my client get the registration?

A. No, he did not.

Q. Did you direct him to get the registration?

A. I asked him, sir, to go back to the car and retrieve the registration; yes, I did.

Q. At some point did my client get the registration?

A. No, he did not.

Q. Did you allow him to get the registration?

A. Sir, the registration was retrieved after the arrest was made.

Q. But when you told my client to go back to get the registration did you have your gun drawn?

A. No, I did not.

Q. Did you allow my client any opportunity to get the registration?

A. Yes, I did.

Q. Then what was my client doing?

A. Your client went back to the car, sir, I don't know what he was doing. I then asked Mr. Wilson to exit the vehicle, upon exiting the vehicle I noticed the CDS drop from his right front pants. At that time my gun was drawn. I saw McNichol [26] reaching underneath the seat, I saw the passenger.

Q. My question is, when you told my client to go back to the car to get the registration do you know what amount of time transpired in order for you to allow him to get the registration?

A. I don't recall the amount of time the time was.

Q. How do you know that my client didn't try to get the registration?

A. I don't know whether or not he did try to get it or didn't try to get it. I just know that I asked him.

MR. CALHOUN: That is all I have, Your Honor.

MR. STOCKSDALE: I have a couple questions.

REDIRECT EXAMINATION

BY MR. STOCKSDALE:

Q. Trooper, were you permitting the driver of the vehicle to get the registration?

MR. CALHOUN: Objection.

THE COURT: Overruled.

Q. Were you permitting the driver to get the registration?

THE COURT: I think he told him to go back [27] and get the registration.

A. Yes, I was.

Q. After you asked him to get the registration why did you approach the passenger?

A. Why did I approach Mr. Wilson?

Q. Yes, tell Judge Bollinger why you approached him.

MR. MIX: Objection.

MR. CALHOUN: Objection.

THE COURT: I sustain as to approach.

Q. Why did you request the passenger exit the vehicle?

MR. CALHOUN: Objection.

THE COURT: Overruled.

THE WITNESS: Well, due to the movement in the vehicle I thought possibly there could be a handgun in the vehicle. I had concern for my safety. At that time when Mr. McNichol went back to the car, I asked Mr. Wilson to step out, that is my whole purpose of not approaching the vehicle, by myself, with three occupants in the vehicle, I wanted each one out at a time to speak to each individual, for my safety.

Q. What was the demeanor of Mr. Wilson when you made contact with him and requested he get out [28] of the car?

MR. MIX: Objection.

THE COURT: The demeanor of Mr. Wilson? He is the passenger. Well, I sustain. How would he know what demeanor is when he is in the car, he is in the back of his car.

Q. Did you have an opportunity to observe Mr. Wilson's demeanor?

A. Yes, I could.

MR. MIX: When? Objection.

MR. STOCKSDALE: I am going to follow-up with that question.

THE COURT: Sustained.

Q. Did you have the opportunity, yes or no?

A. Yes, I did.

Q. When did you have the opportunity to observe the demeanor of Mr. Wilson?

A. When I was standing, which is the front of my patrol car, Mr. Wilson was turned this way, looking at me because I was speaking to him, I was asking him to step from the car, please step back to me, I want to ask him a few questions.

Q. First of all, how far away were you at this point?

A. From ten, fifteen feet, maybe, from [29] wherever the front of my car is, front of my car. I was standing here, then the back of their car. I was at an angle, to where I could see at an angle, where I could see Mr. McNichol, the passenger, Mr. Wilson, and the back seat passenger, as well.

Q. What observations did you make of Mr. Wilson while you were in that position, from that vantage point that you just described?

A. Just in talking with him I could see that he was, he was extremely nervous, he was sweating and not only that, his voice was very shaky.

Q. What did you mean by his voice was very shaky; can you explain exactly what you mean by that to Judge Bollinger?

THE COURT: You have me missing something. I sustain. Who is this, Mr. Wilson?

MR. STOCKSDALE: Yes, Mr. Wilson, with respect to Mr. Wilson.

THE COURT: He is standing back at his car, he sees his face red and shaky, is that what I understand.

THE WITNESS: No, sir.

THE COURT: That is what I missed. Start over, again, Mr. Stocksdale.

A. Maybe if I can stand up I can show you [30] where I was.

Q. If you could demonstrate for Judge Bollinger I would appreciate it.

A. Sir, this would be the back, this would be the violator's vehicle; I'm parked back here, I'm standing to the front of my patrol car, okay.

THE COURT: You are not behind your door?

THE WITNESS: No, no, at this time I am not behind my door, I am at the front of my patrol car, at an angle to where I can see, you would be the driver, the right front passenger would be here and the back seat passenger.

THE COURT: Probably had your eye on their hands?

THE WITNESS: Yes, sir, I was trying to keep an eye on all three at the same time I was speaking with Mr. Wilson, the right front passenger, he was turning around looking at me, I could see his face at that time. I was possibly maybe 10 to 15 feet from him, I could see his face, at that time, he was sweating, I could see the -- just the way he looked, he looked nervous and the way he spoke, he spoke nervous, again, he answered my questions with a question. He was reluctant, he kind of looked at me, didn't answer anything; when he talked his voice [31] was very shaky.

MR. CALHOUN: Your Honor, objection.

MR. MIX: Judge, objection.

THE COURT: I overrule the objections. Next question, Mr. Stocksdale.

BY MR. STOCKSDALE:

Q. How much time lapsed between the time you made that observation you just described to the judge to when you requested Mr. Wilson step from the vehicle?

A. Again, not much time, at all. I would say a minute, at the most, when I asked Mr. Wilson to exit the vehicle, again, he wouldn't do so at first. He was stumbling, he then opened the car door, when he opened the car door, took one step out toward me, I said come back toward me, as he took one step, he was standing kind of -- he was standing like this, with his knees together, for some reason, like he didn't want to move. That made me think,

right there, that he had something on him. I thought possibly a handgun, at that time.

MR. CALHOUN: Objection.

THE COURT: Overruled.

MR. MIX: Continuing objection.

MR. CALHOUN: Continuing objection.

[32] THE COURT: Overruled.

A. Took one step, sir, that is when I observed, through my training, knowledge and experience with the State Police the CDS, which is crack cocaine, tested positive, drop to the ground. At that time I then observed Mr. McNichol have his hand down the front seat. I drew my weapon, extracted the occupant, at gun point, face down, for my safety, as well as theirs.

THE COURT: All right.

BY MR. STOCKSDALE:

Q. Just so we can have this marked for purposes of this motion to suppress this hearing, I am going to show you what's been marked State's Exhibit No. 1 and ask you if you can identify what is -- what is taped in this, not what it eventually was tested to be, but whether you recognize it, where you recognize it from?

A. Yes, I do. This right here, Your Honor, was what dropped from the right front pants leg of Mr. Wilson, at the time I asked him to exit the vehicle. This down here was later found at left front pants pocket.

THE COURT: Talking about a rock like substance of two and a half to three inches in [33] diameter.

A. Correct.

MR. STOCKSDALE: I move to introduce State's 1 for the purpose of the motion to suppress.

THE COURT: All right. That will be Motions Exhibit Number 1, white rock like substance.

MR. STOCKSDALE: I have no further questions.

THE COURT: Mr. Mix?

RECROSS-EXAMINATION

BY MR. MIX:

Q. Again, I am looking at your report here, Trooper Hughes, and I notice it mentions nothing about Mr. Wilson was unusually nervous until he is exiting the vehicle, but now you say you saw him sweating and appeared to be nervous when you were asking him to get out of the car?

A. I have in my report Wilson was unusually nervous and began to shake when exiting the vehicle.

Q. I read the same sentence. This is June 8th, do you what the temperature was on June 8th?

A. No, I don't.

Q. Did you ever go to the vehicle and ask Mr. McNichol where was the registration that he was [34] supposedly getting for you or what was taking him time to get it; did you ever go back to him because he has already given you ID which is fine, everything is fine, he goes back to get that, did you ever go back to say where is your registration?

A. No, I did not, sir, like I said.

MR. MIX: Nothing further, Your Honor.

BY MR. CALHOUN:

Q. Trooper, you eventually recovered a valid registration and valid rental document from the car; is that correct?

A. Yes, sir, I believe that is correct.

Q. Is it your testimony that you were 10 to 15 feet from this car as you were waiting for my client to produce the registration for the vehicle?

A. Your client being Mr. McNichol?

Q. Mr. McNichol, yes, the driver.

A. Yes.

Q. You were 10 or 15 feet behind the car waiting for him to produce the valid registration; is that correct?

A. Yes, I was.

Q. That was for a period of less than a minute?

A. Approximately a period of less than a [35] minute? He was back in the vehicle for longer than a minute. I was getting Mr. Wilson out of the vehicle at that time.

Q. I am not worried about Mr. Wilson, I am asking, under oath, what was the length of time that you allowed for Mr. McNichol, the driver, to produce the valid registration?

A. I don't recall the length of time.

MR. CALHOUN: That is all I have, Your Honor.

THE COURT: Anything else?

REDIRECT EXAMINATION

BY MR. STOCKSDALE:

Q. The valid rental agreement, were either one of these guys on that agreement?

A. I do not have a copy, sir, I thought I did. I believe it was a valid rental agreement, if it was not I think I would have obtained it, kept it for my record.

MR. STOCKSDALE: Thank you. No further questions.

THE COURT: Trooper, how long did the stop take?

THE WITNESS: Before.

THE COURT: From the time you pulled them [36] over, put on your lights, they pulled over, until you drew your gun; how long did that period of time take?

THE WITNESS: Between 5 and 10 minutes, maybe.

THE COURT: Anybody have any questions in light of my questions?

MR. STOCKSDALE: Not in light of yours, Judge.

THE COURT: You may stand down.

MR. STOCKSDALE: Judge, that would be States's [sic] case, as far as the motion to suppress is concerned.

THE COURT: Glad to hear from you.

MR. STOCKSDALE: Do you have any evidence?

THE COURT: I'm sorry.

MR. MIX: No.

MR. STOCKSDALE: Sorry, I just wanted to make sure.

Judge, the key to this case is this whole issue of whether or not an officer, upon approaching a vehicle, can ask either the driver or passenger to -- I will use the term alight from that vehicle. Pennsylvania v. Mimms. Mimms gives an absolutely [37] bright line test when it says --

THE COURT: What is the Maryland case?

MR. STOCKSDALE: Derricott, the first one before it was reversed, but reversed on other grounds.

THE COURT: It was reversed.

MR. STOCKSDALE: It was reversed, no question, but it was clear it was reversed on other grounds. If you read -- I am sure you have both cases, the Court of Appeals does not even address the issue that -- I think it was Judge Moylan addressed in the original Derricott case where it says unequivocally that an officer can request -- because it's a de minimis intrusion -- a driver to alight from a vehicle to ask him about any registration, license, that type of information and the reason is the rationale they accept in Mimms is personal officer's safety, as well as the simple fact that personal safety, in terms of assault on an officer, as well as personal safety in terms of other vehicles on the highway. It also says in Derricott, I think it's not -- I think the Mimms is extended but it also says in Derricott that

they can request a passenger alight from the vehicle, for the very same reasons, simply to ask questions.

[38] Mimms, when you read it, and again, I am certain that this Court has had the opportunity to review that, they talk about, in terms of de minimis intrusion, not only in the insistence of the police on requesting someone to alight from the vehicle not a serious intrusion but it doesn't rise to the level of petty indignity. Judge, it doesn't matter, I am not here arguing because I think my second argument would be the furtive movements that the officer saw that he could conceivably have, I think, he did have articulable suspicion to go with that first prong under Terry and Michigan v. Long to ask information, he did that with respect to the driver, he certainly has the right to do it with the two passengers but doesn't have to reach that point because it's very clear in Derricott that he can make a request of the passenger to alight from the vehicle.

THE COURT: There is no question about the fact that he can make the request under many numerous cases. The question is is the 4th Amendment even triggered when an officer comes up and says, sir, would you mind getting out of the car; the guy can says [sic], yes, I mind getting out of the car, get the hell away from me.

MR. STOCKSDALE: You're right, the Mimms [39] situation found in Derricott doesn't apply the 4th Amendment.

THE COURT: That's not applicable.

MR. STOCKSDALE: I mean it is applicable to this case.

THE COURT: They found that it wasn't even triggered in that case.

MR. STOCKSDALE: What they found was the 4th Amendment is not applicable, but obviously the law is applicable to our scenario here because that is the scenario, it is exactly the same, you're absolutely right, Judge, the 4th Amendment wouldn't apply in that case, therefore, we don't get to that. That is why my first argument is we don't get that to [sic] but even if we did, you have the furtive movements, the limited request of the officer. The Court's question was, it was a very good question, 5 to 10 minutes someone dangerous, someone for 5 to 10 minutes certainly on the side of a roadway where the officer has seen a vehicle, a brand new vehicle with no tags Enterprise sticker or Rent-A-Car tag hanging off is not unreasonable. I would ask the Court to deny the defendant's motion to suppress. First of all, under the Mimms and Derricott exceptions and it's not even an exception. It's just not applying [40] the 4th Amendment, it's not. Certainly the Terry articulable suspicion based on his observations of the movement inside the vehicle.

THE COURT: If the officer is making a strictly Terry stop as opposed to a routine traffic stop or not turning that into an investigative stop, why would he let the driver go back to the car to get the registration card without doing a Terry frisk, at that point?

MR. STOCKSDALE: Because, Judge, he has to have, in the Terry situation, articulable suspicion both as to when he approaches him. He either -- really two prongs he has for articulable suspicion.

THE COURT: You are saying he didn't, at that point -- answer my question, did he or did he not, at that point?

MR. STOCKSDALE: I think he has -- I think he has the right, at that point.

THE COURT: Well, he didn't, he let him go back. What I want to narrow you down to is he either had the right, at that point, and he let him go back or he didn't have the right, at that point, then you tell me what transpired between the time he went back and when he told the other passenger to [41] get out of the car.

MR. STOCKSDALE: As to the initial Terry as it applies to the driver, certainly if he allows him to go back and get the registration and maybe he obtains a registration and he is allowed to satisfy the officer, at that point, that he is not justified in conducting a Terry frisk that he didn't get to because he didn't get out of the car with the registration. So possibly we did not get to the level of where a Terry frisk was justified, but we have a situation where a Terry stop was justified because you need articulable suspicion in each situation to stop and to frisk.

THE COURT: I don't think anybody is arguing there wasn't an articulable suspicion to stop the car.

MR. STOCKSDALE: Right.

THE COURT: Okay, and the officer has a right to ask for a license and registration.

MR. STOCKSDALE: Yes, sir.

THE COURT: Okay, and if he -- as long as he signs a ticket presented to him he is entitled to go his way.

MR. STOCKSDALE: Correct.

THE COURT: Right, okay, so what we have [42] then is you're arguing to me the State says that this is a Terry stop, not an investigation procedure of telling the passenger to get out and what is in my sometimes non-logical mind, some people would say, is what has occurred between him letting the driver go back to the car and when he tells the passenger to get out, that gives him anything, in addition to what he has at the point he lets the driver go back to the car.

MR. STOCKSDALE: Okay. Let me be very clear, in my argument to the Court, that I think that is the second argument. I think the first and the controlling argument is Mimms and Derricott. I don't think there is any question both those control and if the Court follows Mimms and Derricott then we don't reach the Terry issue, but notwithstanding that, then what I am saying to the Court is as to --

THE COURT: Let me ask you this. Hasn't the Court of Special Appeals -- Court of Appeals had ample opportunity to adopt Terry in Mimms for this State?

MR. STOCKSDALE: Judge, it's a Supreme Court case that is followed has been told --

THE COURT: Have they ever quoted it?

MR. STOCKSDALE: Yes, they have.

[43] THE COURT: Where?

MR. STOCKSDALE: In Derricott.

THE COURT: Derricott was reversed.

MR. STOCKSDALE: I understand that, Judge, but, again, it was reversed on other grounds.

THE COURT: Where else have they quoted it?

MR. STOCKSDALE: Judge, I will be honest, that was the case, that was the most recent case.

THE COURT: I want to look at that.

MR. STOCKSDALE: When I Shepardized that was the most recent case. I will be happy to do that for you, sir. I copied all the cases and will present them to you, but it's a Supreme Court case that's been quoted in Derricott, I understand it's been reversed. My suggestion to you is that it was reversed on other grounds.

THE COURT: My problem is that is at this end of the spectrum, then we have the old case of Alford v. State where Judge Moylan reversed a similar thing, 61 Md. Ap.,

where are we, in the middle, that is what I am trying to figure out. Alford is not exactly the factual scenario we have here and this is not the exact factual scenario we have in Derricott.

[44] It's not on all -- what we used to say in law school -- on all 4 points.

MR. STOCKSDALE: I understand that but I think the language of the Court of Special Appeals talks about driver and or passenger and I believe the Court relies on that as good law.

THE COURT: I understand that is what they have said.

MR. STOCKSDALE: Therefore, that is my argument to the Court.

THE COURT: I understand your argument.

MR. STOCKSDALE: Very well, sir.

THE COURT: Let me hear from you, Mr. Mix.

MR. MIX: Judge, if I may, we have here a situation and, in all candor, we have been furnished with discovery, motions filed, we get a police report, I have prepared a defense for the defendant. Nowhere in the police report -- it's admitted today, under oath, by the Trooper -- does he note anything unusual about anybody in this case until after Wilson is out of the car and he admits none of that is in his report. We have a car being stopped going 64 miles an hour and it's posed [sic] 55 on the JFK. And you have

a driver who gets out, who gives him proper identification, he asks him the [45] question where he is coming from; he is coming from Connecticut, has his license, on the way to South Carolina. There is a tag. All this checks out later to be everything in conformity, but if he says that the reason why he decided to get Wilson out is because of these unusual movements, what perplexes me is it's never mentioned in any of his reports that he observed any of the -- I would say a young State Trooper who has been on the force a total of like five months, maybe only a month or so on duty, if he is pursuing this vehicle he has more than ample opportunity to radio for back up if he starts seeing any of these types of movements, he is there five to ten minutes at the scene, he says he basically gets the driver, comes back, gives him all the right answers, says go get his registration. He decides, on his own, he goes to try to get something out of the car, there is absolutely no reason, whatsoever, at this point, for him to do that and I just think the testimony you have heard and the facts, as presented, that Mr. Wilson's rights have been violated. There is no reason, whatsoever, he has to get out of that car or should be asked to get out of the vehicle.

THE COURT: What about that theory that -- [46] you're right, he didn't have to get out of the vehicle but he did.

MR. MIX: I dare say he got him out because the trooper ordered him out of the car. He didn't do that with the first guy. The first guy got out voluntarily, came back, gave him everything he needed. He has nothing in the police report, there is absolutely nothing there about any

unusual actions by any of these parties. He admits that, under oath, he didn't put any of that in his report.

THE COURT: I understand that. Anything else?

MR. MIX: No, sir.

THE COURT: Mr. Calhoun?

MR. CALHOUN: Your Honor, it is my understanding that the trooper did ask Mr. Wilson to exit the vehicle.

THE COURT: Right, he did, and Mr. Wilson could have said, too bad, I ain't getting out. Could have said anything. Troopers have thick skin, they're supposed to get that when they go through the academy.

MR. CALHOUN: The testimony of the trooper is he was 10 to 15 feet behind the car the pertinent time waiting for my client to produce a [47] registration, he says this took 5 to 10 minutes which seems like, I think, that would seem like a lifetime, that really does seem like a bit of a long time for all this to have occurred. I think it is important that there was no attempt here to issue a ticket. There were no guns drawn, so you could perceive that the trooper did not feel himself to be in danger as he is waiting for the registration to be produced. There is no call for backup over this 5 or 10 minute period that he is addressing and I think the Court should lend some credence to the inconsistencies that are contained in the police report as the furtive movements, it is not in the police report but is testified today, in order to buttress the case.

I would give the analogy that Mr. Mix and Mr. Farmer and myself were driving down the road with a questionable tag, going 64 miles an hour and the police pulled us over, I was the driver of the car and I gave the trooper my license and I went back to get my registration. I don't think that the trooper would, at that point, then ask Mr. Mix or Mr. Farmer to get out of the car, no matter what he alleges they were doing. I think he would wait for the registration to be produced. I think that is [48] what they would basically teach you at the training academy. That's not what happened, according to the testimony in the case, everything checked out, the initial story he is from Connecticut, got a license from Connecticut, ultimately everything checked out, valid vehicle, valid registration. I think this is clearly an illegal intrusion as to what happened with Mr. Wilson.

MR. MIX: Judge, if he has any concerns, whatsoever, he certainly is not going to send Mr. McNichol back to the vehicle, he may be sending him back then to get a weapon. He sends him back and there is no way he could have any kind of suspicions about any wrongdoing when he does what he does on that particular day in question, broad daylight.

MR. STOCKSDALE: Judge, we don't get to that point. I understand their arguments. I understand what they are saying to the Court.

THE COURT: Don't get to what point? That was my point that I asked you about.

MR. STOCKSDALE: What I am saying to the Court is that if the Court follows the teachings of Mimms and follows the teachings of Derricott, again, we don't reach that point. But what they are saying essentially is that everything checks out; that's [49] not true.

THE COURT: I understand that. I mean that it is.

MR. STOCKSDALE: I just want the Court -- I am sure the Court obviously heard all the testimony.

THE COURT: The whole question here is -- we have what I call absolutely alert, intelligent, commendable police action, it's getting quagmired in constitutional issues here which you know happens on occasion. Do you agree with me that the 4th Amendment does not authorize such a thing as investigatory Terry stop and frisk?

MR. STOCKSDALE: Judge, there are certain situations, I am going to be totally honest with the Court, what I -- I researched the Mimms point of view, I did look at Terry, I have all the other information downstairs. There is a case on point which talks about investigatory stops, I know it's a recent Maryland case, I have to go downstairs and get it. I think the point there was that any violation of the law permits the stop. I mean here we have a situation where they are arguing it's usual to have 64 in 55.

THE COURT: I am not concerned about the [50] stop of the police officer. Delaware versus Prowell (phonetic) says a uniformed police officer has a right to stop and ask

for a driver's license of anybody who is driving on the public highways.

There is no problem, in my mind, about the stop. The problem is and there is no doubt that the officer did have the legitimate articulable suspicion as to the basis for a stop, then the basis for potentially his own safety. The question is what did he articulate in his testimony to be the basis for then directing the passenger to get out of the car which caused the drop on the ground, in plain view, of the alleged contraband. That is the basis.

MR. STOCKSDALE: I understand that, assuming we're to that point and we're saying that the officer -- and the argument, again, is the officer can do it, anyway, he doesn't have to have a basis.

THE COURT: That is what you say. They say I am not so sure he can. To say a uniformed officer can direct the occupants of any car to get out and if they don't, pull a gun on them and arrest them. That, to me, is a bad arrest. There is no doubt, in my mind, he is telling this passenger, in this case, to get out of the car and the passenger [51] says, I am not getting out of the car, go to hell, he pulls a gun and says get out, you're under arrest, it's a bad arrest.

MR. STOCKSDALE: I understand that. I just know here in the portion of Derricott which deals with Mimms where it says that there is no particularized justification required for asking either the passenger or the driver to get out of the vehicle. No particularized justification is required. The rationale behind this blanket police

perspective is general concern for police safety under such potentially dangerous situations. It is not necessary that there be actual potential -- there be actual dangerous circumstances. The issue is potential and that is all addressed.

THE COURT: You are saying that would allow any police officer to stop any car on the public street with two occupants, demand all three of them get out of the car; is that what you're telling me?

MR. STOCKSDALE: That is what this case says. I am telling you that's what it says.

THE COURT: Where does this case stand; is it in for trial today?

MR. STOCKSDALE: Yes, supposed to be.

[52] THE COURT: Who is the administrative judge?

MR. STOCKSDALE: That would be Judge Howe, I guess, today, I'm not sure.

THE COURT: Well, I want you to go see because I am not prepared to decide this case. I am going to write a written opinion.

MR. MIX: Judge, the only other thing I would throw in, I know it's not exactly Darden (phonetic) but I think you have to look at some of the language about the police officer's interpretive belief is not sufficient to establish reasonable articulable suspicion for an investigatory stop,

particularized suspicion about the individual. I am telling you, until today, for the first time, is there anything that comes from this police officer that there was any kind of unusual movements about anybody that would even give rise to that and I think that is rebutted by the fact he lets this guy go back to the car after being apparently satisfied with everything.

MR. STOCKSDALE: If I can address one more point. I know this is the last word, last word, they had the opportunity.

THE COURT: With some judges that's the [53] way you get the ruling.

MR. STOCKSDALE: I understand that the bottom line is that was the testimony, you obviously can accept or reject it, but Mr. Mix had the opportunity to rebut that with testimony of his own, he didn't; the testimony is what you have so, therefore, I mean, again, you have, as the trier of fact.

THE COURT: Let me -- I am not going to make my decision and determine this case on the fact that somebody is shaking when a uniformed officer stops him. My blood pressure goes up when I see a doctor. People get nervous when they are stopped on the street; but you say that language, you said there need be no particularized interpretation, doesn't the case say that there has to be some reason, though?

MR. STOCKSDALE: I can only say what --

THE COURT: In any event, I am going to read it, myself. What you're going to have to do is get the case continued by the Administrative Judge, I am not going to do it today, I am going to research it.

MR. STOCKSDALE: That is fine.

THE COURT: I think we understand what the [54] issues are, don't need any more memorandum.

MR. STOCKSDALE: 84 Md. Ap. 192, and then it cites Mimms in it. Thank you, sir.

THE COURT: It's interesting.

MR. MIX: Thank you, Your Honor.

MR. CALHOUN: Thank you.

(Hearing concluded.)